

### **REMARKS**

Claims 1-20 remain pending in the application. Favorable reconsideration of the application is respectfully requested.

Applicants acknowledge with appreciation the Examiner's withdrawal of the rejections set forth in the previous Office Action.

#### ***I. REJECTION OF CLAIMS 1-20 UNDER 35 USC §103(a)***

Claims 1-3, 5-10, 12-15 and 17-20 now stand rejected under 35 USC §103(a) based on *Ashley et al.* in view of newly cited *Fuchigami*. Remaining claims 4, 11 and 16 are rejected under 35 USC §103(a) based on *Ashley et al.* in view of *Robinson* or *Tahara et al.* Applicants respectfully request withdrawal of the rejections for at least the following reasons.

Claim 1 defines a data process in which the writing section stores the provided additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file. Moreover, claim 1 defines how the additional audio data represents audio to be reproduced in a mute interval located between two moving picture streams that are going to be played back continuously. Claim 13 recites similar features in a corresponding method claim.

Applicants previously pointed out how *Ashley et al.* relates to a method and apparatus for generating bridge segments to enable editing jumps from one video sequence to another. *Ashley et al.* recognizes the likelihood of an audio gap in the sequence of the audio in a transition from one video sequence to another video sequence. *Ashley et al.* describes inserting a further audio frame at this point such that there is an overlap in the definition of audio presentation units of less than one audio frame period. (Column 6, lines 37-43).

More particularly, *Ashley et al.* teaches forming a bridge sequence that is re-encoded and re-multiplexed in the form of a multiplex-bridge. The multiplex-bridge thus

is included in the moving picture streams, and is not separate from the moving picture streams as recited in claims 1 and 13.

The Examiner now acknowledges that *Ashley et al.* fails to teach a writing section which stores the provided additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file. However, the Examiner now asserts that newly cited *Fuchigami* teaches a writing section which stores the provided additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file. Specifically, the Examiner states that:

*It would have been obvious to one ordinary (sic) skill in the art at the time the invention was made to incorporate the separated data file format of Fuchigami into the teaching of Ashley et al. to record the additional audio for the audio gap separately from the moving picture data to allow user to easily defined the order of reproduction while the contents data remain unchanged (e.g., Fuchigami, paragraph 43). (O.A., p. 3).*

Applicants respectfully disagree with the Examiner's position that it would have been obvious to modify the teachings of *Ashley et al.* to store the additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file based on the teachings of *Fuchigami*. There is no motivation for such a combination under the *KSR* factors, and nor has the Examiner provided such motivation.

*Fuchigami* does not teach recording audio data to be reproduced in a mute interval. Rather, *Fuchigami* is directed to a manner by which high-quality audio data may be recorded on DVD-VR discs which are typically unsuited for high-quality audio data. (See, e.g., [0006]).

The clearly stated objective of the invention in *Fuchigami* is to provide a means for recording/reproducing high-quality audio data on a recording disc which is compatible with the DVD-VR standards. (See, e.g., [0007-0010]). *Fuchigami* teaches recording audio data separately from associate video data so as to accomplish this

objective. There is no suggestion or motivation as to why one may wish to apply the teachings of *Fuchigami* to modify *Ashley et al.* to store an audio frame intended for a gap separately as claimed. *Ashley et al.* is not confronted with the same problem as *Fuchigami* whereby there is difficulty recording high-quality audio data on a disc compatible with the DVD-VR standards.

Nor does the purported motivation in *Fuchigami* apply to the teachings of *Ashley et al.* Paragraph [0043] of *Fuchigami* states that by storing audio, video, still picture and management data separately on a file-by-file division basis, the order of reproducing the contents data can be decided by the user defined PGC or PGCs while the contents data remain unchanged. The present invention is in no way directed simply to providing user defined PGC capabilities.

Still further, even if one were to assume it would have been obvious to modify the teachings of *Ashley et al.* to store audio data separate from video data based on the teachings of *Fuchigami*, the claimed invention still would not result. The teachings of *Fuchigami* would be that all of the audio data associated with particular video data would be stored separately from the video data. In the invention of claims 1 and 13, however, the moving picture streams include both video and audio, and it is the additional audio to be reproduced during the mute interval that is located separately from the moving picture data streams. There is no teaching, suggestion or motivation as to why the teachings of *Fuchigami* would be applied selectively only to the audio data for filling an audio gap in *Ashley et al.*, and not to the other audio data associated with the video data as well. It is well settled that an examiner may not simply pick and choose from the teachings of the references. The teachings of the references must be taken as a whole.

Applicants respectfully submit that there has not been a *prima facie* showing of obviousness in rejecting the claims, and the rejection must be withdrawn.

Accordingly, *Ashley et al.* does not teach or suggest the invention of claims 1 and 13. The remaining claims depend from claims 1 or 13 and may be distinguished over the teachings of *Ashley et al.* for at least the same reasons. Furthermore, the

secondary references of *Robinson* and *Tahara et al.* fail to make up for the deficiencies in *Ashley et al.* Applicants therefore respectfully request that the rejections be withdrawn.

## **II. CONCLUSION**

All claims 1-20 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

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